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DOL/ILAB FOR TINA MCCARTER AND DRL/IL FOR TU DANG

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SUBJECT: RESPONSE TO 2007 DOL REQUEST FOR INFORMATION ON
THE WORST FORMS OF CHILD LABOR IN BANGLADESH

REF: SECSTATE 149663

¶1. SUMMARY: This cable responds to a request for information regarding child labor in Bangladesh. (REFTEL) Post is forwarding other primary sources of information by email and courier directly to the Department of Labor. END SUMMARY.

¶2. (U) The following sections repeat the original query format and provide corresponding responses.

A) Laws and regulations proscribing the worst forms of child labor. What laws have been promulgated on child labor, such as minimum age(s) for employment or hazardous forms of work?

RESPONSE: Per Bangladesh Labor Law, 2006 (Act No. 42 of 2006), citing prior precedent: Child workers are defined as those less than 14 years of age. Adolescents are defined at those between ages 14 and 18. Per Section 34(1), child labor is prohibited in all establishments and occupations.,

Bangladesh, s labor law defines particularly hazardous work (prohibited for children and adolescents) as: cleaning and lubrication of machinery while it is in motion (Section 39), and underground (mining) and under-water work (Section 42). A forthcoming child labor policy identifies a list of some 45 other types of hazardous work, per International Labor Organization (ILO) guidelines.

Are there exceptions to the minimum age law?

RESPONSE: In a newly added section of the 2006 labor law (Section 44), a provision allows employment of children aged 12 to 13 years of age, in such light work as not to endanger his health and development or interfere with his education., In separate provisions, the law provides for the employment of adolescents (age 14 to 17) as a vocational trainees or apprentices, under certification provisions that include a medical examination to establish age.

What laws have been promulgated on the worst forms of child labor, such as forced child labor and trafficking or child prostitution and pornography?

RESPONSE: Per Section 35 of the Bangladesh Labor Law of 2006, the pledging of labor (through contract) by the parents of guardians of a child is prohibited.

Child trafficking is prohibited by the Women and Child Repression Prevention Act of 2000. (Act 8 of 2000, also translated as the Suppression of Violence against Women and Children Act of 2000). The law criminalizes the trafficking of women and children, and Section 6 details that persons convicted of child trafficking or child prostitution can

receive the death sentence, life imprisonment, and fines. Under Section 7 of the Act, abduction of women or children is punishable by life imprisonment or a minimum sentence of 14 years imprisonment.

Child prostitution is criminalized in the Bangladesh Penal Code, defined as the sale of a minor (under 18 years of age) for prostitution (Section 372) or the buying of a minor for purposes of prostitution (Section 373). Under Section 42 of the Children Act of 1974, females under the age of 16 are not permitted to work as sex workers, either willingly or by means of coercion.

The laws of Bangladesh address pornography in a general manner, through section 292 of the Bangladesh Criminal Code, which criminalizes the sale and production of obscene materials for gain. In the past year, enforcement activities have occurred against purveyors of pornographic DVDs. Post has no information on child pornography in Bangladesh.

What is the minimum age for military recruitment?

RESPONSE: The minimum age of military recruitment is 18.

If the country has ratified Convention 182, has it developed a list of occupations considered to be worst forms of child labor, as called for in article 4 of the Convention?

RESPONSE: Bangladesh has ratified ILO Convention 182, and has developed a list of 45 occupations considered to be the worst forms of child labor.

B) Regulations for implementation and enforcement of proscriptions against the worst forms of child labor. What

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legal remedies are available to government agencies that enforce child labor laws (criminal penalties, civil fines, court orders), and are they adequate to punish and deter violations?

RESPONSE: Two labor law enforcement bodies exist. The Directorate of Labor has enforcement capabilities, which are not commonly used. Enforcement of labor laws is primarily conducted by the Chief Inspector, of the Department of Factories and Establishments. During the course of routine inspections, if labor violations are discovered (including the illicit use of child labor), the violations are presented to the factory owner for remedy within 21 days. The situation is then checked, and if no remedy has been made, a second letter is issued. If no action is taken, then legal action is taken in the form of complaint to a labor court. A court enforcement action takes at least 4 to 5 months, and can take as long as 2 to 3 years. The Chief Inspector reports that most violations are remedied with a simply verbal warning at the time of inspection. However, provisions exist for fines of 5,000 taka per violation. Overall, the Chief Inspector comments that the law is sufficient, but his department does not have adequate resources to monitor and enforce labor law compliance for the entire country.

To what extent are complaints investigated and violations addressed?

RESPONSE: Complaints regarding child labor largely originate from the Ministry of Labor, under the Chief Inspector, of the Department of Factories and Establishments. The Chief Inspector notes that they do not get complaints from NGOs, and state that parents generally want their children to work (so do not file complaints.) Violations are addressed in the above described process.

What level of resources does the government devote to investigating child labor cases throughout the country?

RESPONSE: The entity responsible for enforcing all labor laws (including child labor laws) is the Chief Inspectorate of the Department of Factories and Establishments, which has 31 offices through the country, including a head office, divisional, regional, and branch offices. Inspectors at various levels are assigned a specific number of factories for inspection each month. In a given month, a Chief Inspector inspects at least three factories; an Assistant Chief Inspector inspects 12 factories and five establishments (e.g. insurance company offices, banks); Engineer Inspectors and Medical Inspectors inspect 15 factories; and Dock Safety Officer Inspectors inspect 15 ships and jetties.

How many inspectors does the government employ to address child labor issues?

RESPONSE: No specially designated body exists for investigating child labor exclusively. Currently, the Chief Inspectorate of the Department of Factories and Establishments staff includes 150 inspectors and related support staff. They have just received permission to expand the inspectorate staff by 59 persons, for a staff total of 209 persons devoted to enforcing all of Bangladesh's labor laws. This staff is responsible for investigating child labor as part of its broader responsibilities.

How many child labor investigations have been conducted over the past year?

RESPONSE: Between January 2007 and November 2007, a total of 36,075 labor inspections were conducted across Bangladesh. During these inspections, all aspects of applicable labor laws are reviewed, including laws dealing with child labor.

How many have resulted in fines, penalties, or convictions?

RESPONSE: No statistics are available for child labor law violations specifically. In the past year, 3,817 labor cases been disposed by the labor courts, resulting in total fines of 810,000 taka (\$12,000). Currently, there are 377 cases are currently pending in the labor courts. Based on verbal feedback, very few of the total cases filed by the Chief Inspector of the Department of Factories and Establishments relate to child labor law violations.

Has the government provided awareness raising and/or training activities for officials charged with enforcing child labor laws?

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RESPONSE: The Ministry of Labor reports that labor inspectors receive general training on labor law, which includes child labor provisions. At the ministry and policy level, officials receive additional training from the ILO, often in Italy. Field staff get additional training on child labor on an ad-hoc basis, as provided by NGOs, the ILO, and during periodic courses at government training institutes. Post has not reviewed the curricula of these courses.

C) Whether there are social programs specifically designed to prevent and withdraw children from the worst forms of child labor. What initiatives has the government supported to prevent children from entering exploitive work situations, to withdraw children engaged in such labor, and to advocate on behalf of children involved in such employment and their families?

RESPONSE: The Government of Bangladesh (GOB), under the Ministry of Labor, funds its own national program entitled Eradication of Hazardous Child Labor in Bangladesh, which is being implemented by NGOs, and covers 21 sectors in which child labor occurs: rickshaw driving, printing, domestic work, welding and fabrication, automotive repair, brick and stone breaking, machine shops, hotels and restaurants, cigarette manufacture, match factories, tanneries, salt

factories, daily labor, battery factories, dyeing operations, potters assistance, blacksmith assistance, minibus assistance, construction, shrimp factories, and saw mills. Currently in its second phase, this program has been allocated 298 million taka (USD 4.2 million) for three years of operation. Given prior delays in implementation, the program is going to stretch its funds to a fourth year of operations and is currently set to expire in June 2009. This program has at least three elements. The primary focus is on providing non-formal education and skills training. A reported 30,000 children working in 21 designated hazardous labor categories have been trained in the 24 month courses since its inception. The program's purpose is to transition these children out of hazardous labor conditions through the provision of additional skills. Secondly, the program includes a micro-credit component that provides the children's families with alternative income generating opportunities. So far 5,000 families have received loans ranging from 5 to 10 thousand taka (USD 75 to 150) and additional 20,000 families will receive loans in the next year. Finally, the program has a public information dimension, which has included anti-child labor pamphlets; other areas of mass media messaging are currently being developed. At least one of the implementing NGOs involved in this project conducts parallel non-formal education activities focusing on child workers. For example, ESDO (Eco-Social Development Organization), a local NGO, is conducting a non-formal education program for 35,185 children to eradicate hazardous child labor in a north west area of Bangladesh.

The GOB also enables NGOs working to remove children from the worst forms of child labor. UNICEF's Basic Education for Hard to Reach Urban Children (BEHTRUC) provides 351,000 urban working children in six divisional cities with two years of non-formal education, specifically targeting urban children aged 8-14 employed in hazardous working conditions.

D) Does the country have a comprehensive policy aimed at the elimination of the worst forms of child labor?

RESPONSE: A new, national child labor policy originally drafted in 2006 is currently in the final stages of approval. It specifically addresses the worst forms of child labor.

Does the country have a comprehensive policy or national program of action on child labor or specific forms of child labor?

RESPONSE: The Third National Plan of Action for Children (2005-2010) includes child labor within broader objectives. Administered by Bangladesh's Ministry of Women and Children Affairs, the plan identifies five areas of action: Food and Nutrition, Health, Education, Protection, and Physical Environment. Child labor is addressed within the Protection area of action. The national action plan employs a rights-based model and seeks to develop district-level child rights monitoring functions. The Ministry of Women and Children Affairs is seeking to coordinate with all relevant ministries and district committees to enhance awareness and generate actions in protection of child rights. To implement this plan, the Ministry of Women and Children's Affairs is

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working with UNICEF on a (2006-2010) project entitled Capacity Building for Monitoring Child Rights.

Does the country incorporate child labor specifically as an issue to be addressed in poverty reduction, development, educational or other social policies or programs, such as Poverty Reduction Strategy Papers, etc? If so, to what degree has the country implemented the policy and/or program of action and achieved its goals and objectives?

RESPONSE: The Government of Bangladesh's 2005 National Strategy for Accelerated Poverty Reduction specifically

articulates Child Rights as a priority in section 4.K, and addresses child labor in section 4.43. Children related issues are also detailed in the in the Supporting Strategy section 5.F.2. Section 5.397 specifically focuses on issues related to child labor.

On the implementation side, multiple strategic goals address specific aspects of child labor, education, preventing child abuse, and protecting designated at risk groups, such as street children. Within Bangladesh,s 2005 National Strategy for Accelerated Poverty Reduction, policy matrix 17, Children Advancement and Rights, Section F, Protection against Abuse, Exploitation and Violence, part 1, Reduce Social Violence against Under-privileged Children, subpart xi states the following: Take immediate and effective measures to eliminate the worst forms of child labor as defined in International Labor Organization Convention No. 138. The associated key target is stated: Increase knowledge base about child labor and rights. The action taken / underway are stated: strengthen knowledge base about the worst forms of child labor. The PRSP policy agenda for FY05 to FY07 has two parts. Part one is to: mobilize adults e.g. employers, local officials, police, parents, professional associations, etc, to improve working conditions and prevent exploitation. Part two is to: introduce a minimum wage policy for child labor. The future priority is also stated: amend country,s labor codes in line with CRC and ILO-182.

Is education free in law and in practice? Is education compulsory in law and in practice?

RESPONSE: Per the Compulsory Primary Education Act of 1990, primary education is compulsory for children aged 6 to 10 years, ending in the fifth grade. The GOB estimates that 53% of students attending government schools complete grades one through five. Primary education is free in government schools. Government direct transfers to families based on children,s school attendance provides a positive incentive for benefiting families and has contributed to higher rates of school attendance, especially in secondary schools (above fifth grade) for girls. The government has a limited ability to enforce compulsory education, especially where parents prefer to keep their children at home to do chores, or working outside the home for wages. For secondary education, de facto fees and associated costs for school supplies act as a disincentive for poor families to send their children to school.

E) Is the country making continual progress toward eliminating the worst forms of child labor? Posts are requested to ask national statistical offices when appropriate for any recent child labor data sets. Posts are asked to indicate in what sectors/work activities/goods are children involved and how has this changed over the past year. Please provide information on industries where child labor occurs as well as specific tasks in which children are involved and goods they produce, if available.

RESPONSE: Focusing on hazardous work, in 2006, the ILO released the Baseline Survey for Determining Hazardous Child Labor Sectors in Bangladesh (2005), jointly published by the Bangladesh Bureau and Statistics and the ILO. The report identified 45 sectors, along with an estimated number of child workers in each sector. The top seven sectors were as follows (with estimates of children employed in each): restaurant / tea stall (153,345); rickshaw/van puller (123,115); fishing / fish drying (78,592); carpentry (56,010); welding works (20,949); automobile workshop (18,878); rice/ spices milling (17,690). The study estimates a total of 539,403 children are employed in Bangladesh across 45 listed sectors. (NOTE: Post will forward the entire study in hard copy format. END NOTE.)

Labor groups assert that child labor is used in fish and sea-food processing operations, specifically Bangladesh,s shrimp export industry. Regarding the ready-made garment

(RMG) industry, worker advocacy groups agree that within Export Processing Zones (where many garments are produced), child labor is absent. However, the groups question the claim that all subcontracting and supply operations serving the garment industry have fully eliminated child labor. For example, children may be involved with assisting their parents in performing garment piece work, or in ancillary support roles such as serving tea and making deliveries.

Based on GOB efforts, donor funded efforts and NGO programs to combat the worst forms of child labor, it appears that progress in addressing child labor is being made in Bangladesh. However, in the absence of reliable or consistent annual surveys it is impossible to provide quantitative analysis to assess the impact of GOB and NGO efforts to combat the worst forms of child labor. While anecdotal evidence continues to expose in Bangladesh the rampant incidence of child labor and stories of child victims of trafficking and labor exploitation, insufficient data constrains the assessment of overall trends.

Please also provide information on age and gender of working children, disaggregated by industry/work activity/good, if possible.

RESPONSE: Information will be provided by hard copy from the Baseline Survey for Determining Hazardous Child Labour Sectors in Bangladesh (2005), jointly published by the Bangladesh Bureau and Statistics and the ILO. (NOTE: The data, in chart form, does not usefully translate to cable format. END NOTE.)

To what extent are children working in slavery or practices similar to slavery, such as debt bondage, serfdom, and forced or compulsory labor? Please indicate industries where this occurs and, if applicable, specific goods that such children produce. To what extent are children trafficked to work? Are children trafficked for commercial sex or for labor exploitation? If labor-related, what specific industries or for the production of what specific goods are children known to be trafficked?

RESPONSE: Estimates on the number of underage girls trafficked on an annual basis range between 10,000 and 29,000. The Center for Women and Child Services reports that trafficked boys are generally under 10 years of age and trafficked girls are generally adolescents between 11 and 16 years of age. External trafficking of children is for both labor and sexual exploitation.

The internal trafficking of children within Bangladesh often takes the form of bonded labor. Government officials confirm orally that internal trafficking of children contributes to the following labor sectors in Bangladesh: household labor, sexual exploitation, fish processing, automotive repair, and welding shops.

Illustrating internal trafficking in the fish processing sector, the press in November 2007 reported the Bangladesh Navy rescued a group of 13 boys, aged 15 to 23, from Dublachar Island, in southwestern Bangladesh. Lured to the area under false pretenses, the boys were assaulted, robbed, and then sold to fish traders who forced them to work for up to 16 hours a day without payment. The boys were reportedly subjected to physical abuse and torture if they refused to perform labor. A local government official from the area stated that at least 192 boys have been rescued from islands off the coast of Bangladesh and estimated that an additional 2,000 boys were being held in the surrounding coastal areas in similar conditions of forced labor.

Household servitude is a prevalent form of child labor in Bangladesh. While some children are treated well by the families they work for, others are subjected to mistreatment and abuse. Given the working conditions, trafficking-like

situations can arise when individual child workers have no actual ability to exercise their legal rights or to leave the employing household. In 2006, a study by the Bangladesh Institute of Labor Studies indicated that attacks on domestic child workers accounted for 50% of the deaths, injuries and sexual attacks suffered by domestic workers. The government occasionally takes legal action against employers who abuse domestic servants.

Are they trafficked across national borders or within the country (specify source, destination and transit countries/regions/communities, if possible)?

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RESPONSE: Trafficking of children for labor and sexual exploitation occurs within Bangladesh and internationally between Bangladesh and India and then between India and Pakistan and Persian Gulf countries. Within Bangladesh, the trafficking is generally from rural areas or urban slums to Dhaka or other cities, or to specific sites where seasonal work is conducted, e.g. fishing. Internationally, trafficking of children out of Bangladesh is generally by road to Kolkata or Mumbai. From India, onward trafficking of children is conducted, often by boat, to Karachi, Pakistan, the UAE, and other Persian Gulf countries.

The rescue of children trafficked for service as camel jockeys is a priority area for the GOB. Since August of 2005, collaborative efforts between the GOB, the United Arab Emirates and NGOs have resulted in the repatriation of 199 children who had been trafficked to serve as camel jockeys. The boys have been housed in government or NGO-run shelters, and have been provided vocational training and compensation packages of 104,000 taka (USD 1,500). In conjunction with UNICEF, the GOB is working on a second phase to ensure the sustainable rehabilitation and reintegration of former camel jockeys. The second phase will address all former camel jockeys (since 1993), including an identified total of 345 former victims who returned to Bangladesh prior to the 2005 repatriation program and all camel jockeys who suffered handicapping injuries during the course of their exploitation. Injured former camel jockeys will receive compensation packages of 300,000 to 500,000 taka (USD 4,400 to 7,200). The use of children in camel races has been banned in the United Arab Emirates. Informally, some organizations report that child camel jockeys might still be exploited in Oman and Saudi Arabia. Overall, Bangladesh can report success in curtailing the trafficking of boys for forced service as camel jockeys.

The statistics on trafficking cases and prosecutions generally combine women and children. Two disaggregated data points are available: between June 14, 2004, and December 10, 2007, the Bangladesh Ministry of Home Affairs reports that they rescued and rehabilitated 296 child victims of trafficking (excluding former camel jockeys), and initiated 261 new child trafficking cases for prosecution. In combating the overall trafficking of women and children, the Government of Bangladesh reports for the period between June 14, 2004, and December 10, 2007 a total of 186 convicted individuals; 8 were sentenced to death sentence, 136 were sentenced to life in prison, and 42 received other sentences. As of December 2007, there are 23 cases under investigation, and 555 trafficking cases still being tried (some of which have been pending since before 2004).

One area of diplomatic progress in addressing trafficking can be reported: the Governments of India and Bangladesh have in the past year worked on a joint plan of action to facilitate the safe and humane repatriation of child victims of trafficking.

With the assistance of international donors and NGOs, the GOB is taking additional steps to train and sensitize its foreign diplomats to the plight of victims of human trafficking. The

GOB is also cutting down on the international trafficking of child by air through increased airport vigilance and additional scrutinizing of child passport applications separate from their natural parents.

COMMENT

13. (SBU) The prevalence of child labor in Bangladesh is a direct result of the country's level of economic development; the high incidence of poverty is the primary factor that contributes to child labor practices. In many cases, the opportunity costs of sending a child to school instead of work is insurmountable without monetary incentives. The size and scope of the informal economy (especially in its linkages to the formal economy) combined with a low capacity for effective legal enforcement of child labor laws are factors that constrain regulatory approaches to the problem of child labor.

14. (SBU) The GOB makes a clear distinction between child labor in general and its worst exploitative forms. While child labor as a consequence of Bangladesh's poverty is acknowledged, the GOB focuses its limited resources on specific policy and program steps to ameliorate the worst forms of child labor, trafficking and exploitation.

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15. (SBU) Overall, the GOB's current approach to child labor is focused on awareness building, creating educational opportunities, and the use of positive incentives to deter child labor. Negative incentives against child labor (in the form of legal sanctions in the labor law, detailing fines and imprisonment) are viewed as having limited effectiveness. Resource constraints limit the GOB's ability to enforce its labor laws, and child labor is currently treated as another aspect of labor law. Furthermore, the country's labor laws do not apply to the informal sector which includes household servants, family-based farming and fishing, small scale rural industries and construction, and any occupation in which no wage or salary is provided. However, on the issue of child trafficking (illegal under a separate law) the GOB is far more active in pursuing legal sanctions and criminal prosecution.

16. (SBU) Specific possibilities for further progress can be identified. First, Bangladesh law as it pertains to informal economic activities could be strengthened, particularly in addressing the household labor sector in which children work and are susceptible to trafficking-like conditions. Second, enforcement of child labor laws would be enhanced by the creation of a specially-trained child labor enforcement cell, combined with provisions for a mobile court mechanism. Finally, better coordination between labor policy and education policy and programming is needed to reconcile the economic reality of child labor (in its legal forms) with appropriate informal education and technical skills training.

By creating positive integrated models for work and study, the GOB may be able to stem the worst forms of child labor.
END COMMENT.

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